IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 8397 of 2007(Y)

PETITIONER:

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1. AMJITH.V.A., S/O.ABDUL RAHMAN,
   VAIPPIPPADATH HOUSE, SANTHIPURAM P.O.,
   SREENARAYANAPURAM VILLAGE, KODUNGALLUR TALUK.

2. SONA.K.A., W/O.AMITH.V.A.,
   VAIPPIPPADATH HOUSE, SANTHIPURAM P.O,
   SREENARAYANAPURAM VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENTS:

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1. SREENARAYANAPURAM GRAMA PANCHAYATH,
   REPRESENTED BY SECRETARY, P.O.SANTHIPURAM,
   THRISSUR-680 668.

2. SUB INSPECTOR OF POLICE,
   MATHILAKAM, KODUNGALLUR.

BY ADV. SRI.K.J.NASARUL ASLAM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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W.P(C) No.8397 of 2007

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Dated this the 29th day of June, 2007.

J U D G M E N T

Petitioners impugn Ext.P2 notice issued by the Panchayat under Section 220(b) of the Kerala Panchayat Raj Act 1994 directing them to stop construction of the building within 3 days and to report compliance.

2. It is seen from Ext.P2 that the said notice is addressed to one Kallikkattil Abdul Rahman. Admittedly the said Abdul Rahman is the father of petitioner No.1. It is contended by the petitioners that the property in question where the construction is being made belongs to them and not to Sri.Abdul Rahman. It is further contended by them that the construction is not in violation of the relevant Rules and regulations. Anyhow, I do not propose to deal with any of the above contentions in view of the admitted position that petitioners have got a statutory remedy. They can file appeal against the order impugned.

3. Learned counsel for the petitioner submits that petitioners are prepared to avail of the statutory remedy. Their only anxiety is that the appeal may not be entertained on the ground of delay. I do not find any reason why the Panchayat shall not entertain the appeal, especially since petitioners had been prosecuting this writ petition immediately on receipt of Ext.P2 notice. Petitioners shall prefer the appeal as provided under the Act within two weeks from today, in which event the Panchayat shall entertain the same and take a decision thereon in accordance with law.

4. The learned Standing Counsel for the Panchayat submits that if there is any defect in the notice, the same will be rectified and a proper notice will be issued to the persons concerned. But according to the petitioners, there is one flaw which stares at the face of the Panchayat. It is pointed out by the learned counsel that Abdul Rahman is not interested in the property in question. Therefore the appeal that may be preferred by the petitioners may not be entertained on that ground. Learned Standing Counsel for the Panchayat submits that proper notices to the persons concerned will be issued, if so advised, in which event it will be open to the petitioners to challenge the same in accordance with law. In the meanwhile petitioners shall not proceed with further construction.

Writ Petition is disposed of in the above terms.

A.K. Basheer
Judge.

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